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## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

X\* MAY /5 2886 \*

GARY LA BARBERA, LAWRENCE KUDLA, THOMAS GESUALDI, PAUL GATTUS, CHESTER BROMAN, FRANK FINKEL, JOSEPH FERRARA and ALEXANDER E. GETTLER, as Trustees and Fiduciaries of the Local 282 Welfare, Pension, Annuity, Job Training, and Vacation and Sick Leave Trust Funds,

BROOKLYN OFFICE

05-CV-1075 (JG, RER)

Plaintiffs,

- against -

Tall Construction Corp.

Defendant.

## PROPOSED DEFAULT JUDGMENT

The Clerk of the Court having noted the default of Tall Construction, Corp. ("Tall"), and based upon the Declaration of Elise S. Feldman, the Declaration of Theresa Cody, the accompanying exhibits, and the applicable law, the Court hereby enters judgment against Tall, as follows:

- (1) The Court requires that each Tall submit to Plaintiffs for audit, no later than thirty (30) days after the date of this Order, the pertinent books and records, as defined in the Funds' Trust Agreement for the period from November 1, 2003 through the present.
- (2) In the event any contributions are found to be due and owing by Tall, as revealed by the audit, it shall pay Plaintiffs the amount of contributions owed, plus interest, liquidated damages and attorneys' fees and costs, pursuant to Section 502(g)(2) of ERISA, 29

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U.S.C. § 1132(g)(2);

(3) In the event that Tall has not maintained such books and records, or in the event that Tall fails to produce books and records within thirty (30) days of the date of this Order, provided that Tall has been served with a copy of this Order, Plaintiffs shall be permitted to collect a contributions as found in the estimated audit performed by the Auditors in the amount of \$33,101.22, plus interest to April 21, 2006 in the amount of \$9,148.22, liquidated damages in the amount of \$9,148.22 and attorneys' fees and costs in the amount of \$11,769.23 pursuant to Section 502(g)(2) of ERISA, 29 U.S.C. § 1132(g)(2) and Article IX, § 3 of the Trust Agreement for a total of \$ \$63,166.89; plus per diem interest in the amount of \$16.22 per day to the date of judgment;

(4) Attorneys' fees and costs are also awarded to the Plaintiffs in the following amounts as against Tall:

COSTS	ATTYS <u>FEES</u>	TOTAL ATTYS FEES AND COSTS
\$1,361.73	\$10,407.50	\$11,769.23

SO ORDERED.

Date: Brooklyn, New York

s/John Gleeson

John Gleeson UNITED STATES DISTRICT JUDGE

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